

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : AUDONNET *et al.*
Filed : May 31, 2000
Serial No. : 09/586,535
For : **DNA VACCINE – PCV**
Group Art Unit : 1632
Examiner : Li

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New York, NY 10151

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Date of Deposit: February 19, 2004

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(Signature of person mailing paper or fee)

DECLARATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

We declare and state that:

1. Jean-Christophe Francis AUDONNET, Michel BUBLOT, Jennifer Marie PEREZ, and Catherine Elisabeth CHARREYRE are declarants herein and are co-inventors of the subject matter described and claimed in the above-referenced application ("the present application"), which is assigned to Merial, and claims priority to U.S. Application Serial No. 60/138,352, filed June 10, 1999.

2. Brian M. MEEHAN, Francis McNEILLY, Daniel TODD, Seamus KENNEDY, Victoria A. JEWHURST, John A. ELLIS, Lori E. HASSARD, Edward G. CLARK, Deborah M. HAINES and Gordon M. ALLAN are named as the authors of "Characterization of novel circovirus DNAs associated with wasting syndromes in pigs" published September 1998 in Journal of General Virology, volume 79, pages 2171-2179 ("the Meehan article"), and were, at the time of publication, employed at The Queen's University

of Belfast, Department of Agriculture for Northern Ireland, and the University of Saskatchewan, working under the direction of herein declarants Gordon M. Allan (as to authors Meehan, McNeilly, Todd, Kennedy, Jewhurst and Allan), John A. Ellis or Deborah M. Haines (as to authors Ellis, Hassard and Haines) or Edward G. Clark (as to himself). It is noted that the Meehan article was published in September 1998, less than one year prior to the effective U.S. filing date of the present application, *i.e.* June 10, 1999. It is understood that, if it can be shown that the Meehan article is not by others or another as to the co-inventors on the present application, the Meehan article is not available against the present application, and cannot be used in a rejection. Initially, please note the Acknowledgement made in the Meehan article of the contributions of herein declarants and co-inventors Charreyre and Audonnet. This evinces that the Meehan article is not by others or another as to the co-inventors of the present application.

3. Furthermore, authors of the Meehan article are also inventors on U.S. Patent Application Serial Number 09/082,558, filed May 21, 1998 and issued as U.S. Patent No. 6,368,601 on April 9, 2002; namely U.S. Patent No. 6,368,601 has as inventors Gordon ALLEN, Brian MEEHAN, Edward CLARK, John ELLIS, Deborah HAINES, Lori HASSARD, John HARDING, Catherine Elisabeth CHARREYRE, Giles Emile CHAPPUIS and Francis McNEILLY. This patent pertains to PCV2 and is assigned to Merial, The Queen's University of Belfast and University of Saskatchewan. It is noted that the Catherine Elisabeth CHARREYRE of the '601 patent is the same Catherine Elisabeth CHARREYRE who is an inventor on the present application, as recited in paragraph 1, *supra*; and that MEEHAN, McNEILLY, HASSARD, CLARK, HAINES, and ALLAN, authors on the Meehan article are co-inventors on the '601 patent. We note the overlap of authors and inventors among the Meehan article, the present application and the '601 patent, as to the PCV2 subject matter, to demonstrate that the inventors on the '601 patent are not others or another as to the inventors on the present application and vice versa; and the authors on Meehan *et al.* are not another or others as to the inventors on the present application, and vice versa. Again, note the Acknowledgement in the Meehan article.

4. We understand that the Meehan article is being employed in a rejection in the present application. The subject matter of the Meehan article, especially that for which the Examiner cites the Meehan article, is not by another or by others as to the inventors on the present application, as recited above, and the inventors on the present application are not "another" or "others" as to the authors of the Meehan article, as discussed above.

5. Thus, we are advised and therefore believe that, as the authors of the Meehan article, are not "others" or "another" as to the present inventive entity, and that the Meehan article was not published more than one year prior to the effective U.S. filing date of the present application, that the Meehan article is not available as a reference against the present patent application. We thus respectfully request that rejections based on the Meehan article be reconsidered and withdrawn.

6. We further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the present application or any patent issued thereon.

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Date: JANUARY 16th, 2004

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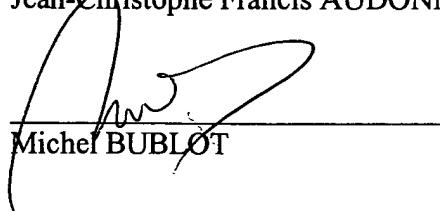
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Jean-Christophe Francis AUDONNET




Michel BUBLOT

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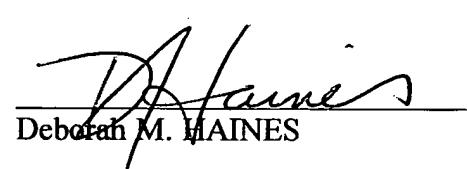
Date: 16 JAN 09


John A. ELLIS

Date: _____

Edward G. CLARK

Date: Jan 16 / 03


Deborah M. HAINES

Date: _____


Gordon M. ALLAN

Date: _____

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Date: _____

Michel BUBLOT

Date: _____

Jennifer Marie PEREZ

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Catherine Elisabeth CHARREYRE

Date: _____

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Date: Jan 19, 2004



Edward G. CLARK

Date: _____

Deborah M. HAINES

Date: _____

Gordon M. ALLAN

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Date: _____

Jean-Christophe Francis AUDONNET

Date: _____

Michel BUBLOT

Date: 10/28/04

Jennifer Marie PEREZ



Date: _____

Catherine Elisabeth CHARREYRE

Date: _____

John A. ELLIS

Date: _____

Edward G. CLARK

Date: _____

Deborah M. HAINES

Date: _____

Gordon M. ALLAN

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Date: _____

Jean-Christophe Francis AUDONNET

Date: _____

Michel BUBLOT

Date: _____

Jennifer Marie PEREZ

Date: Feb 17, 2004


Catherine Elisabeth CHARREYRE

Date: _____

John A. ELLIS

Date: _____

Edward G. CLARK

Date: _____

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John A. ELLIS

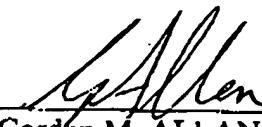
Date: _____

Edward G. CLARK

Date: _____

Deborah M. HAINES

Date: 19/02/04


Gordon M. ALLAN